



Dear Stewart Partners,

We hope you are enjoying the last days of summer in New England! This week's update contains a wealth of information. First, we're providing a preview of the new Massachusetts regulations requiring the filing of a tax return for sales of real estate over \$1,000,000 – these regulations go into effect on November 1, 2025, which is just around the corner. Second, we've compiled a list of federal government websites that we often refer to; we think you'll find them useful as well.

Below, you'll also find information on our upcoming installment of the Massachusetts Underwriters Talk Title Series, being presented by Mark Jones. Also, Jutta Deeney will be chairing a live webcast offered by Massachusetts Continuing Legal Education New England next Tuesday, September 23, 2025 on the New FinCEN Rule on Anti-Money Laundering Regulations for Residential Real Estate Transfers. Information on both programs can be found below.



**Massachusetts DOR Withholding Requirements on Sales of Real Estate over \$1 Million – what we know as of now** By: Tracie M. Kester, Esq., Massachusetts Associate Senior Underwriting Counsel

You may recall from our [May 21, 2025 mid-week update](#) that the Department of Revenue (DOR) had proposed a new regulation requiring settlement agents to withhold taxes on sales of real estate in Massachusetts which exceed a gross sales price of \$1,000,000. The regulation, [830 CMR 62B.2.4](#), with some changes from the prior version, has now been issued and will apply to **all sales which take place after November 1, 2025**. While we are still waiting for DOR to provide forms, the below are some highlights of the new regulation.

If property is **located in Massachusetts** AND the **Gross Sales Price equals or exceeds \$1,000,000**, the Withholding Agent **MUST submit a Return to DOR**. Note that **the return is required even if no tax is required to be withheld**. The DOR is calling the return **"Form NRW"** (Nonresident Real Estate Withholding). This is a bit of a misnomer, because the law does not distinguish between a resident and a non-resident for purposes of filing a return. The form has not been issued by DOR yet.

Filing of the return and remittance of the withholding is **done online through [MassTaxConnect.com](#)**, and so attorneys should sign up for a login if they do not already have one.

**Certain sellers can claim an exemption from withholding** – but even for exempt sellers, the Withholding Agent would still need to file the Form NRW Return. Exemptions include:

- A seller who is a full-year Massachusetts resident since at least January 1 in the year of the sale and who intends to live in Massachusetts after the sale.
- A seller who is a Pass-Through Entity such as a partnership, s-corporation, an estate, or a trust not taxed at the entity level. Note that disregarded entities, such as single-member LLCs and pass-through trusts are not considered a Pass-Through Entity. Instead the “seller” for the purposes of withholding is the beneficial owner.
- A seller which is an estate of a resident decedent or a resident trust (meaning the settlor was an inhabitant of Massachusetts at the time the trust was created or during the year the property is sold).
- A seller which is a corporation with a continuing Massachusetts business presence (meaning that they filed a Massachusetts tax return for the prior year and maintain a place of business in Massachusetts at the time of the transfer), provided the corporation represents that it is subject to the requirement to report the transfer on its Massachusetts tax return for the current year and it will so report, and that it is not a sale of all or substantially all of the corporation’s assets in Massachusetts.

This is not an exhaustive list, and practitioners will want to familiarize themselves with the full list prior to the November 1 deadline.

**Sellers can claim an exemption by completing a Transferor’s Certification** evidencing the exemption **and providing that Certification to the Withholding Agent at or prior to closing**. Similar to the Form NRW, we are waiting for DOR to provide the form of the Certification. Fortunately, the regulation does state that the Withholding Agent may rely upon the information provided in the Transferor’s Certification if the Agent takes the Transferor’s Certification in good faith. In the absence of evidence of bad faith, a Withholding Agent may presume that a Transferor’s Certification has been executed in good faith.

If withholding is required, the amount varies depending on whether the amount attributed to seller exceeds \$1,000,000. Hopefully the Form NRW will provide additional information on the calculation of the amount to be withheld. The seller can also elect an alternative withholding calculation based upon their “Estimated Net Gain” multiplied by their applicable tax rate, and providing this information on the Transferor’s Certification.

Note that unlike the FinCEN GTO, this regulation does not distinguish between residential and commercial property. Further, the regulation applies to both cash deals and transactions financed with a loan, and it does not matter whether a title insurance policy is issued.

This regulation will impact all real estate attorneys – whether they represent buyers, lenders, or sellers. As set forth above, the Withholding Agent is responsible for submitting the return and remitting the amount withheld (if any). The regulations define the Withholding Agent as “The person responsible for closing a Real Estate transaction, including an attorney, escrow company, or title company, or any other person who receives and disburses the consideration or value for a Transfer of Real Estate.” If there is no title agent or title company, the buyer is required to act as Withholding Agent.

The return must be submitted within 10 days of closing, which is defined as the transfer of title. Along with the return (Form NRW), the Agent must submit the Transferor's Certification (if provided), the HUD statement, and the tax withheld (if any). As set forth above, the return and any remittance must be done through the [masstaxconnect.com](https://masstaxconnect.com) website. The Withholding Agent must also supply the sellers with a copy of the tax return, along with the receipt for the withholding payment, if any.

For an attorney representing a seller of property that exceeds \$1,000,000, they'll want to make sure to inform the client early in the process about the withholding requirements, and discuss whether any exemptions may apply. If an exemption does not apply, the seller may need to consult with their CPA in advance of the closing regarding the alternate withholding based upon the estimated gain.

DOR has provided an FAQ site with additional information: <https://www.mass.gov/info-details/withholding-requirement-sale-of-real-estate-by-non-residents>

Stewart will be issuing a formal bulletin on these requirements, and as the DOR releases new forms and information, we'll be sure to pass that information along.



**Federal Government Website Resources** By: Rhonda L. Duddy, Esq., Massachusetts and New Hampshire Underwriting Counsel

As you are aware, in the world of real estate conveyancing, there are statutes, title standards and practices, and regulations that you must stay informed of and must follow. Here are a few helpful federal websites that provide access to data to assist you with your compliance obligations.

Office of Foreign Assets Control (OFAC)

<https://ofac.treasury.gov/>

OFAC administers and enforces economic sanctions programs and publishes a list of individuals, groups, and entities subject to sanctions. These persons and entities are referred to as "Specially Designated Nationals" or "SDNs." The SDN List resulted from Executive Order 13224, signed by then President Bush on September 23, 2001, in an effort to impede terrorist funding. The assets of SDNs are blocked and United States persons and entities are prohibited from dealing with them. You can check the SDN List at OFAC's website here: <https://ofac.treasury.gov/sanctions-list-service>

In addition to the SDN List, OFAC also administers several other sanctions lists including a Foreign Sanctions Evaders List (FSE), which lists foreign persons who have facilitated deceptive transactions for or on behalf of persons subject to US sanctions. Similar to the requirements for the SDN List, US persons and entities are prohibited from engaging in a transaction with a person or entity on the FSE List unless specifically exempted or otherwise authorized by OFAC. Like the SDN List, the FSE List is available on the OFAC website. The FSE List targets will appear in OFAC's Sanctions List Search tool "Other

OFAC Sanctions List" as the list type and can be found here:

<https://ofac.treasury.gov/other-ofac-sanctions-lists>

In conjunction with OFAC's lists, their website includes instructions as well as a portal for submitting required reports. Be aware that sometimes a "false positive" match may occur, where a buyer, seller or lender's name resembles one on the SDN list. This happens more frequently with common names or words. The OFAC website will provide you with information on when to submit a report and when one is not necessary. The site provides some very useful information to help you clear a potential match, which you should review anytime you potential match occurs during your search.

To ensure compliance with OFAC's regulations, for each closing you conduct you should check the SDN list and verify that the parties to the closing (including a seller, buyer, borrower, individual or foreign lender, or other party receiving any significant funds from closing) are not shown on the SDN List.

You can also check whether a party is on the SDN List, along with whether a party or the property is the subject of a Stewart Special Alert, in the Stewart Special Alerts Database at <http://specialalerts.stewart.com>.

Federal Financial Institutions Examination Council (FFIEC)

<https://www.ffiec.gov/>

Another online resource is the [Federal Financial Institutions Examination Council \(FFIEC\)](#), which was established by the Financial Institutions Regulatory and Interest Rate Control Act of 1978. They are an interagency composed of five banking regulators - the [Federal Reserve Board of Governors](#) (FRB), the [Federal Deposit Insurance Corporation](#) (FDIC), the [National Credit Union Administration](#) (NCUA), the [Office of the Comptroller of the Currency](#) (OCC), and the [Consumer Financial Protection Bureau](#) (CFPB).

The council's primary mission is to ensure uniformity and consistency in the supervision of financial institutions. The FFIEC website includes guidelines, standards, and resources for regulatory compliance, risk management, and operational consistency in the financial industry, including information on the [Bank Secrecy Act \(BSA\)](#) and [Anti-Money Laundering \(AML\) regulations](#).

This website could be useful if, for example, your chain of title indicates there is an undischarged mortgage and you want to determine whether the lender still exists in order to obtain a release from them. In that case, the National Information Center (NIC) provides financial and structure information on banks and other institutions for which the Federal Reserve has an interest including both domestic and foreign banking organizations that operate in the US. You can access the NIC through the dropdown menu at FFIEC. Please note when searching for an older institution, you will need to select "More Options" and click the "inactive" check box. The NIC site can be found here: <https://www.ffiec.gov/NPW>

FDIC

<https://banks.data.fdic.gov/bankfind-suite/bankfind>

Another source to help you locate a lender is the FDIC. The FDIC has a website that enables you to search the name and location of FDIC insured banks dating back to 1934.

You can search by bank name, FDIC Certificate Number or web address. If a match is found, you will be provided with information such as whether they are active or inactive, their primary website and headquarters address.

Financial Crimes Enforcement Network (FinCEN)

<https://www.fincen.gov/>

Along with Stewart's continuing guidance and resources regarding FinCEN and the new Residential Real Estate Rule scheduled to go into effect on December 1, 2025, FinCEN has created a dedicated webpage for resources pertaining to Residential Real Estate Reporting. The website will be updated, but it currently provides reference materials and frequently asked questions. It's also advised to sign up for FinCEN news updates to stay up to date on FinCEN news and actions. There is a link on their homepage to subscribe.

Stewart also has a website dedicated to the new FinCEN Anti-Money Laundering rule which goes into effect on December 1, 2025, and you can access it here:

<https://www.stewart.com/en/fincen-aml>

Coupled with all of the available website resources as well as Stewart's Bulletins and Guidelines available in Virtual Underwriter, your local underwriter is always available to discuss your questions or concerns.



### **Upcoming Educational Opportunities**

#### **Massachusetts Underwriters Talk Title Webinar – Easements- October 8, 2025**

Please join Mark Jones, Associate Senior Underwriting Counsel, on Wednesday, October 8 2025 at 11 A.M. for the next installment of our talk title series. In this webinar, Attorney Jones will discuss the different types of easements in Massachusetts, including how to insure beneficial easements and how to distinguish an appurtenant easement from an easement in gross. To register, click here: [Register Here](#)

#### **Jutta Deeney to present at MCLE-New England**

Jutta Deeney, Stewart's New England Regional Underwriting Counsel, will be chairing a panel discussion with two industry experts, Ruth Dillingham and John Crowley, about the new FinCEN reporting requirements. This informative 2 hour session will take place on Tuesday 9/23/2025 from 9:30 AM to 11:30 AM. For more information, including cost and registration, visit MCLE at the following website: [MCLE - New England](#)



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